

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

JANICE HARGROVE WARREN

PLAINTIFF

VS.

CASE NO. 4:19-CV-00655 BSM

KEMP, ET AL.

DEFENDANTS

Sarah Howard Jenkins, PLLC Attorney at Law Arkansas Bar No. 97046 P. O. Box 242694 Little Rock, Arkansas 72223 Telephone: 501-406-0905 Email: sarah@shjenkinslaw.com	William Cody Kees, No. 2012118 George Jay Bequette, No. 87012 BEQUETTE, BILLINGS & KEEES, P.A. 425 W. Capitol Avenue, Suite 3200 Little Rock, Arkansas 72201 Telephone: 501-374-1107 Facsimile: 501-374-5092 jbequette@bbpalaw.com ckees@bbalaw.com
Austin Porter Jr., Ark. Bar No. 86145 PORTER LAW FIRM Catlett-Prien Tower Building 323 Center Street, Suite 1035 Little Rock, Arkansas 72201 Telephone: 501-244-8200 Facsimile: 501-372-5567 Email: Aperte5640@aol.com	Attorneys for Defendant

AFFIDAVIT OF AUSTIN PORTER JR.

Comes the affiant, **Austin Porter Jr.**, submitting the following affidavit under oath:

1. I graduated from the University of Arkansas at Little Rock in the fall of 1982 with a major in criminal justice. During the spring of 1983, I was awarded one of two Winthrop

Rockefeller Scholarships to attend law school at the University of Arkansas at Little Rock (UALR) School of Law. I enrolled at the UALR School of Law during the fall of 1983. I graduated from the UALR School of Law on May 18, 1986. On August 25, 1986, I was admitted to the practice of law before the Bar of Arkansas. I have also been admitted to practice before the United States District Court, Eastern and Western Districts of Arkansas.

2. Upon completion of law school, I went to work for Central Arkansas Legal Services (CALS), where I handled cases such as domestic relations, consumer, real estate and landlord tenant. I worked at CALS from August 1986 until May 5, 1989. I then worked at Walker, Roaf, Campbell, Ivory & Dunklin. While at this firm, I handled personal injury litigation and criminal matters. I also continued to handle consumer matters. I joined the firm of John W. Walker, P.A. on September 2, 1991, and have been involved in employment discrimination cases, civil rights cases, and voting rights cases. I left the employment of John W. Walker, P.A., on May 7, 1999, when I opened the Porter Law Firm as a solo practitioner.

3. The professional associations that I hold memberships in are: Arkansas Bar Association, Pulaski County Bar Association and the W. Harold Flowers Law Society. I served on the Board of Directors of the Pulaski County Bar Association during 1990 and 1991. I served as chairman of the Law Day Committee for the Pulaski County Bar Association. I currently serve on the Arkansas Bar Association's Commission on Diversity, and I am a former member of the Federal Practice Committee.

4. Some of the cases that I have been involved in are:

Employment Discrimination

Harrison v. Moore, United States District No. PB-C-91-0468, Tarar Porter v. Carolyn Staley, United States District Court No. LR-C-94-8, Pamela Smith v. KATV, et al., United States

District Court No. LR-C-94-434; Ollie Eddings, et al. v. Augusta School District, et al., United States District Court No. H-C-95-120; Angela Piggee v. Jimmy Jones, 84 F. 3d. 303, 109 Ed. Law Rep. 622 (8th Cir. 1996); Debra A. Smith, et al. v. Riceland Foods, Inc., 151 F.3d 813 (8th Cir. 1998); Julia Ellis, et al. v. Arkansas Department of Human Services, United States District Court No. LR-C-97-1036; Shirley Justice v. Togo West, et al., EEOC Commission Nos., 250-98-8312X/Agency No. 95-1246, 250-98-8266X/Agency No. 98-2498, 250-98-8021X/Agency No. 95-1715, Richard Day and Calvin Hollowell v. F. G. "Buddy" Villines, et al., 907 F. Supp. 1264 (E. D. Ark. 1995), *reversed* 119 F.3d 650 (8th Cir. 1997); Milton Graham, et al. v. Arkansas Department of Human Services, United States District Court No. 4:00CV-00960 JMM, Ester Lunnie, et al. v. University of Arkansas Board of Trustees, et al., United States District Court No. 4:99CV-000809, *interlocutory appealed*, 255 F.3d. 615 (8th Cir. 2001), Myrtle "Merle" Smith v. Arkansas Department of Human Services, United States District Court No. 4:00CV00277 GTE; Michael Coleman v. Holiday Inn Select, 158 F.Supp.2d 923 (E.D.Ark. 2001); Dorothy Smith v. Arkansas Teacher Retirement, United States District Court No. 4-01-CV0-0026GH; Nicole L. Gray v. United States Beef Corporation, United States District Court No. CV-02-6101; Timothy Starks v. Southland Hyundai, Inc., d/b/a Northland Hyundai, United States District Court No. 4:01CV-00542 GTE; Ausler v. Arkansas Department of Education, 245 F.Supp.2d 1024 (E.D. Ark. 2003); Gloria Leapheart v. The City of Morrilton, et al., United States District Court No. LR-C-91-696; Desi A. Ledbetter v. Alltel Corporate Services, 437 F.3d 717 (8th Cir. 2006), Sheila Fields v. Shelter Mutual Insurance Co., 520 F.3d 859 (8th Cir. 2008), Carol Fuller v. Fiber Glass Systems, L.P., 618 F.3d 858 (8th Cir. 2010), Kelven Hadley v. The City of Pine Bluff, Arkansas, et al., United States District Court No. 5:08-CV-00184 JLH; Gary Austin v. Fletcher Long, 779 F.3d 522 (8th Cir. 2015); Melvin Smith v. URS Corporation, 803 F.3d 964 (8th Cir. 2014); Jeffrey

Sand Co. v. Adrian Bryant, 919 F.3d 520 (8th Cir. 2019); Albert Ridgell v. The City of Pine Bluff, Arkansas, et al., 935 F.3d 633 (8th Cir. 2019); Doris Smith v. Arkansas Department of Finance and Administration, United States District Court No. 4:17-CV-00857 JM; DaVetta Flowers v. Major General Kendell Penn, United States District Court No. 4:18-CV-577 DPM.

School Litigation

Tammie McFarlin, et al. v. Newport Special School District, 980 F.2d 1208 (8th Cir. 1992); Tammie McFarlin, et al. v. Newport Special School District, 784 F.Supp. 589 (E.D.Ark. 1992), Simmons on Behalf of Simmons v. Hooks, 843 F.Supp. 1296 (E.D.Ark. 1994)

42 U.S.C.S. § 1983

Adams v. Hartwick, United States District Court No. LR-C-86-747; Willie Ashford v. The City of Hamburg, Arkansas, et al., United States District Court No. 93-1032; Elvin Gamble Jr. v. Pulaski County, Arkansas et al., United States District Court No. LR-C-97-38; Charles Dobbins v. Mike Collie, et al., United States District Court No. 96-6011; Annie Johnson v. Pulaski County, Arkansas, et al., United States District Court No., LR-C-96-594; Delois Parker, et al. v. Columbia County, Arkansas, et al., United States District Court No. CV-97-1075; Wheeler v Prince, 318 F.Supp.2d 767 (E.D.Ark. 2004); Jerry Cooperwood v. The City of Kensett, Arkansas, et al., United States District Court No. 4:05-CV-0902 JLH; Rodney Burrell v. The City of Sherwood, Arkansas, United States District Court No. 4:08-CV-002517 WRW; Dwain Smith v. Conway County, Arkansas, 759 F.3d 853 (8th Cir. 2014); Colbert v. City of Monticello, Arkansas, 775 F.3d 1006 (8th Cir. 2014); Sylvia Perkins, et al. v. Joshua Hastings, et al., United States District Court No. 4:15-CV-00310 BSM; Davdrin Goffin v. Robbie Ashcraft, 957 F.3d 858 (8th Cir. 2020).

42 U.S.C.S. § 1981

Johnny Whitfield, et al. v. Forrest City School District, et al., United States District Court No. H-C-88-86, Sherri Betton v. Sears, United States District Court No. LR-C-91-852, Tinika Daniels et. al. v. Dillard's, Inc., et al., 373 F.3d 885 (8th Cir. 2004);

Labor and Employment Law

Petty v. Scan, United States District Court No. LR-C-91-324,

State Reported Opinions

Green v. Bell, 308 Ark. 473, 826 S.W.2d 226 (1992), Torrence Tabor Cheatham v. State, 63 Ark.App. 106, 974 S.W.2d 490 (Ark.App. 1998); Bell v. Jefferson Hospital Association, Inc., 96 Ark.App. 283, 241 S.W.3d 276 (Ark.App. 2006); Huff and Ward v. Family Dollar Trucking, Inc., et al., 2015 Ark. App. 574 (2015)¹.

5. I have been a presenter for the following Continuing Legal Education events:

- W. Harold Flowers Law Society – Annual Meeting: Employment: Employment Discrimination – June 20 – 21, 2003;
- Arkansas Bar Association – 2003 Bridging the Gap Seminar: Employment Law – November 8, 2003;
- Arkansas Bar Association – 2004 Bridging the Gap Seminar: Employment Law – November 6, 2004;
- National Business Institute - *Prevent Human Resource Claims* - March 14, 2006;

¹The defendants appealed a jury verdict in the amount of \$3,250,000.00, which was affirmed in large part.

To name a few.

6. The fee that I am requesting in this case is **\$375.00** per hour, which rate is reasonable and commensurate with my experience and qualifications. This rate is comparable to that of other attorneys with my experience, and working in Little Rock, Arkansas who are involved in this type of litigation or in general practice.

7. In 1994, I was awarded an hourly rate of \$130.00 for the work that I performed in the case of Gloria Leapheart v. The City of Morrilton, et al., United States District Court No. LR-C-91-696 and on January 19, 1995, I was awarded an hourly rate of \$130.00 for work I performed in the case of Willie Ashford v. The City of Hamburg, Arkansas, et al., United States District Court No. 93-1032. On September 27, 1996, I was awarded an hourly rate of \$135.00 in the case of Richard Day and Calvin Hollowell v. Randy Johnson, et al., United States District Court No. LR-C-94-849 (case and fee award reversed on appeal)². In May 1997, in the case of Charles Dobbins v. Mike Collie, et al., United States District Court No. 96-6011, the parties settled the fee issue, giving undersigned counsel his hourly rate of \$135.00. On December 17, 1997, I was awarded an hourly rate of \$135.00 in the case of Debra A. Smith et al. v. Riceland Foods, Inc., 151 F.3d 813 (8th Cir. 1998). On August 19, 1999, I was awarded an hourly rate of \$140.00 in the case of Delois Parker, et al. v. Columbia County, Arkansas, et al., United States District Court No. CV-97-1075. On July 9, 2001, I was awarded an hourly rate of \$150.00 in the case of Shirley Justice v. Togo West, et al., EEOC Commission Nos., 250-98-8312X/Agency No. 95-1246, 250-98-8266X/Agency No. 98-2498, 250-98-8021X/Agency No. 95-1715. On October 5, 2001, I was awarded an hourly rate of \$150.00 in the case of Kevin Byers v. Augusta School District, et al.,

²Richard Day and Calvin Hollowell v. Randy Johnson, et al., 119 F.3d 650 (8th Cir. 1997).

United States District Court No. 2:97CV00109JFF. On the date of December 17, 2001, I was awarded an hourly rate of \$150.00 in the case of Milton Graham, et al. v. Arkansas Department of Humans Services, United States District Court No. 4:00CV-00960 JMM. On May 5, 2003, I was awarded an hourly rate of \$170.00 in the case of Nicole L. Gray v. United States Beef Corporation, United States District Court No. CV-02-6101. On October 28, 2004, I was awarded an hourly rate of \$200.00 in the case of Desi A. Ledbetter v. Alltel Corporate Services, Inc., United States District Court No. 4-03-CV-00533 WRW.³ In January 2007, I was awarded an hourly rate of \$225.00 based on a settlement in the case of Jerry Cooperwood v. The City of Kensett, Arkansas, et al., United States District Court No. No. 4:05-CV-0902 JLM. In March 2009, I was awarded an hourly rate of \$250.00⁴ in the case of Levoria Jefferson, et al. v. Helena/West Helena School District, United States District Court No. Case No. 2:04-CV-00170 BRW. In September 2009, I was awarded an hourly rate of \$225.00 in the case of Carol L. Fuller v. Fiber Glass Systems, L.P., United States District Court No. 4:07-CV-01120 BRW. In September 2016, I was awarded an hourly rate of \$325.00 in the case of Little Rock School District v. Pulaski County Special School District, et al., United States District Court No. 4:82-CV-00866 DPM. On October 20, 2017, undersigned counsel was awarded an hourly rate of \$350.00 in the case of Sylvia Perkins, et al. v. Joshua Hastings, et al., United States District Court No. 4:15-CV-00310. On May 31, 2018, undersigned counsel was awarded an hourly rate of \$350.00 in the case of Adrian Bryant v. Jeffrey Sand Company, United States District Court No. 4:16-CV-0509 BSM.¹ On July 23, 2018, undersigned counsel was awarded an hourly rate of \$285.00 by The Honorable Price Marshall;

³ Alltel Corporate Services, Inc., did not challenge this hourly rate at the district court level, apparently believing it to be reasonable.

⁴ Aldolphus Hicks did not challenge this hourly rate at the district court level, believing it to be reasonable.

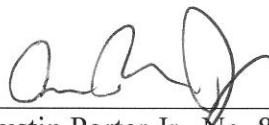
¹ This hourly rate was upheld on appeal. See Adrian Bryant v. Jeffrey Sand Co., 919 F.3d 520, 529 (8th Cir. 2019).

counsel had requested his customary hourly rate of \$350.00, but Judge Marshall refused despite stating that “[M]r. Porter is a gifted, skilled, and experienced lawyer.” The Court noted that Mr. Ridgell’s success “wasn’t across the board.” The jury ruled in favor of Mr. Ridgell’s race claim, but not the retaliation claim. *See Albert Ridgell v. The City of Pine Bluff, Arkansas, et al.*, United States District Court No. 5:16-CV-00073 DPM [Doc. # 87]². On May 2, 2019, undersigned counsel was also awarded his customary hourly rate of \$350.00 by the Eighth Circuit Court of Appeals. *See Adrian Bryant v. Jeffrey Sand Company*, Eighth Circuit Court of Appeals No. 18-2297. In June 2020, in the case of *Doris Smith v. Department of Finance and Administration*, United States District Court No. 4:17-CV-00857 JM, undersigned counsel requested an hourly rate of \$350.00, which was not opposed, and the defendant agreed to pay the jury verdict of \$331,333.81, fees, and other requested equitable relief.

8. The total time that I am seeking to be compensated for in this case is **196.25** hours.

9. The total time of **196.25** hours is a conservative but reasonable submission based upon my time records which were prepared contemporaneously to the performance of the work. I have attached a true and accurate account of the hours that I have expended in representing the plaintiff **Janice Hargrove Warren**. The total amount of time being billed is submitted upon careful review of my records, and necessary reductions of hours have been made in order to avoid unproductive and duplicative work. (**See Exhibit “A”**).

This statement is true and correct to the best of my knowledge, records, information and belief.



Austin Porter Jr., No. 86145

² The Eighth Circuit reversed the jury verdict in this case *in toto*. *See Albert Ridgell v. The City of Pine Bluff, Arkansas, et al.*, 935 F.3d 633 (8th Cir. 2019).

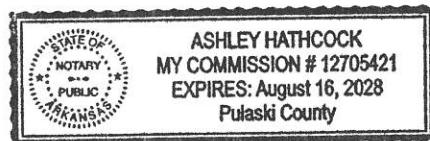
STATE OF ARKANSAS)
)ss.
COUNTY OF PULASKI)

SUBSCRIBED and SWORN to before me, a Notary Public, on this 3rd day of
May, 2022.

Ashley Hathcock
NOTARY PUBLIC

MY COMMISSION EXPIRES:

August 16, 2028



PORTER LAW FIRM
The Tower Building
323 Center Street, Suite 1035
Little Rock, AR 72201

Invoice submitted to:
Janice Hargrove Warren
8917 Northwood Creek Drive #B
North Little Rock ARKANSAS 72213

May 2, 2022

In Reference To: Janice Hargrove Warren v. Pulaski County Special School District,
United States District Court No. 4:19-cv-0655

Invoice #10024

Professional Services

		<u>Hrs/Rate</u>	<u>Amount</u>
10/6/2020	Spoke with Sarah Jenkins about entering my appearance in this case.	0.40 375.00/hr	150.00
10/8/2020	Reviewing pleading, complaint, other documents.	4.50 375.00/hr	1,687.50
10/9/2020	Reviewing summary judgement motion response	4.50 375.00/hr	1,687.50
10/18/2020	Reviewed emails from Sarah Jenkins about pre-trial disclosures, also about entering my appearance in the case.	0.30 375.00/hr	112.50
11/2/2020	Reviewed emails from Sarah Jenkins regarding Crossett South African trip.	0.20 375.00/hr	75.00
	Sent copies of jury instructions to Professor Jenkins.	0.40 375.00/hr	150.00
11/3/2020	Emails requesting copies of depositions.	0.20 375.00/hr	75.00
11/14/2020	Reviewing jury instructions.	0.70 375.00/hr	262.50
1/16/2021	Reviewing email from Professor Jenkins regarding motion for sanctions and fees.	0.50 375.00/hr	187.50
6/16/2021	Spoke with Professor Jenkins in reference to Section 1981. Also reviewed damages profile.	0.60 375.00/hr	225.00

EXHIBIT

A

Janice Hargrove Warren

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		<u>Hrs/Rate</u>	<u>Amount</u>
6/21/2021	Reviewed email from Professor Jenkins regarding case matter.	0.20 375.00/hr	75.00
7/22/2021	Sent emails regarding settlement discussions.	0.50 375.00/hr	187.50
7/27/2021	Reviewing materials for mediation.	3.75 375.00/hr	1,406.25
7/29/2021	Sent emails regarding planned mediation.	0.20 375.00/hr	75.00
7/30/2021	Mediation for Dr. Warren.	5.75 375.00/hr	2,156.25
8/3/2021	Read Jett v. Dallas Independent School District.	0.75 375.00/hr	281.25
8/4/2021	Reviewed email from Professor Jenkins regarding Jett v. Dallas Independent School District.	0.30 375.00/hr	112.50
8/26/2021	Sent Sarah an email regarding depositions.	0.40 375.00/hr	150.00
9/10/2021	Reviewed Cody Kees' settlement offer of \$350,000.00.	0.10 375.00/hr	37.50
	Spoke with Sarah Jenkins regarding Cody Kees' settlement offer of \$350,000.00.	0.40 375.00/hr	150.00
10/12/2021	Reviewing defendant's motion for summary judgement, and plaintiff's response.	5.50 375.00/hr	2,062.50
12/30/2021	Reviewing court's ruling on motion for summary judgment, motion in limine, and other matters.	4.75 375.00/hr	1,781.25
1/17/2022	Reading and summarizing deposition of Shelby Thomas.	4.50 375.00/hr	1,687.50
	Reading and summarizing deposition of Dr. Linda Remele.	1.25 375.00/hr	468.75
1/27/2022	Reading and summarizing deposition of Tina Ward.	5.75 375.00/hr	2,156.25
1/29/2022	Reading and summarizing deposition of Earnest Duckery.	4.75 375.00/hr	1,781.25
2/3/2022	Reading and summarizing deposition of Earnest Duckery.	5.75 375.00/hr	2,156.25

Janice Hargrove Warren

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		<u>Hrs/Rate</u>	<u>Amount</u>
2/4/2022	Reading and summarizing deposition of Alicia Gillen.	2.00 375.00/hr	750.00
2/5/2022	Reading and summarizing deposition of Alicia Gillen.	2.75 375.00/hr	1,031.25
2/6/2022	Reading and summarizing deposition of Alicia Gillen.	1.20 375.00/hr	450.00
2/7/2022	Reading and summarizing deposition of Alicia Gillen.	1.90 375.00/hr	712.50
	Trial preparation, reviewing jury bio, pleading, jury instruction, reviewing notes, deposition summaries.	5.75 375.00/hr	2,156.25
2/9/2022	Reading and summarizing deposition of Alicia Gillen.	3.55 375.00/hr	1,331.25
2/10/2022	Reading and summarizing deposition of Dr. Linda Remele.	5.25 375.00/hr	1,968.75
	Trial preparation, reviewing jury bio, pleading, jury instruction, reviewing notes, deposition summaries.	3.25 375.00/hr	1,218.75
2/11/2022	Reading and summarizing deposition of Dr. Linda Remele.	2.50 375.00/hr	937.50
	Trial preparation, reviewing jury bio, pleading, jury instruction, reviewing notes, deposition summaries.	2.75 375.00/hr	1,031.25
2/12/2022	Reading and summarizing deposition of Dr. Linda Remele.	4.10 375.00/hr	1,537.50
2/13/2022	Reading and summarizing deposition of Dr. Linda Remele.	5.50 375.00/hr	2,062.50
2/14/2022	Reading and summarizing deposition of Dr. Linda Remele.	0.50 375.00/hr	187.50
	Court - trial started.	9.00 375.00/hr	3,375.00
2/15/2022	Pre-trial preparation.	2.75 375.00/hr	1,031.25
	Court - trial.	8.75 375.00/hr	3,281.25
2/16/2022	Trial preparation, reviewing notes from the previous two (2) days, reviewing deposition summaries.	4.25 375.00/hr	1,593.75

Janice Hargrove Warren

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		<u>Hrs/Rate</u>	<u>Amount</u>
2/17/2022	Court - trial.	10.25 375.00/hr	3,843.75
2/18/2022	Court - trial.	10.30 375.00/hr	3,862.50
2/19/2022	Reviewing notes, deposition summaries, pleading.	4.50 375.00/hr	1,687.50
2/22/2022	Court - trial.	7.25 375.00/hr	2,718.75
2/23/2022	Court - trial. (Went home early due to weather - sleetin.)	4.25 375.00/hr	1,593.75
2/25/2022	Court - jury verdict.	0.75 375.00/hr	281.25
2/26/2022	Email to Sarah.	0.60 375.00/hr	225.00
	Read cases - Sanders v. Lee County School District, Johnson, et al. v. Georgia Highway Express.	2.75 375.00/hr	1,031.25
2/27/2022	Working on anticipated Rule 50(b) response.	5.85 375.00/hr	2,193.75
2/28/2022	Time management.	1.30 375.00/hr	487.50
	Working on anticipated Rule 50(b) response.	3.75 375.00/hr	1,406.25
3/4/2022	Read the following cases in references to damages against the district: a) Pembaur v. City of Cincinnati, et al., b) Jamil v. Secretary of Defense, c) Evans v. Kansas City, Missouri (retaliation),, d) Setser v. Novack (I & II).	6.25 375.00/hr	2,343.75
3/6/2022	Working on anticipated Rule 50(b) response.	2.50 375.00/hr	937.50
3/11/2022	Spoke with Sarah about recovering under Sec. 1981 and Title VII.	0.30 375.00/hr	112.50
	Read Brown v. GSA, 42 U.S.C. 820 (1976) and Johnson v. Railway Express, Inc., 421 U.S. 454 (1975).	1.75 375.00/hr	656.25
3/12/2022	Worked on motion for equitable relief.	5.75 375.00/hr	2,156.25
3/19/2022	Worked on Amended and Substituted Motion and Brief for Equitable Relief.	1.20 375.00/hr	450.00

Janice Hargrove Warren

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		<u>Hrs/Rate</u>	<u>Amount</u>
3/21/2022	Worked on Amended and Substituted Motion and Brief for Equitable Relief.	1.50 375.00/hr	562.50
3/26/2022	Reviewed the defendant's Rule 50(b) motion.	0.70 375.00/hr	262.50
	Read Evans v. Kansas City School District.	0.80 375.00/hr	300.00
4/5/2022	Reviewed Prof. Jenkins Rule 50(b) brief, made changes and suggestions.	1.30 375.00/hr	487.50
For professional services rendered		196.25	<u><u>\$73,593.75</u></u>
Balance due			<u><u>\$73,593.75</u></u>